

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT WINDELL TATE,

Petitioner,

v.

Case No.: 06-CV-13156

RAYMOND BOOKER,

Respondent.

**OPINION AND ORDER DIRECTING RESPONDENT TO FILE SUPPLEMENTAL
RESPONSIVE PLEADING AND GRANTING PETITIONER'S
"MOTION TO COMPEL RESPONDENT TO
FURNISH AND FILE *WALKER* HEARING TRANSCRIPT"**

Petitioner Robert Windell Tate has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Respondent has filed an Answer in Opposition to Petition for Writ of Habeas Corpus. In his response, Respondent fails to address the claims raised in the petition. Instead, Respondent addresses the claims raised by Petitioner in his appeal of right in the state court. However, those claims are not raised in the petition. Therefore, the court directs Respondent to file a supplemental responsive pleading addressing the claims raised in the habeas petition.

Petitioner has filed a "Motion to Compel Respondent to Furnish and File *Walker* Hearing Transcript." Petitioner states that a *Walker* hearing¹ was held on April 24, 2001, and requests that Respondent be required to file a transcript of the hearing and

¹*People v. Walker*, 374 Mich. 331 (1965), requires an evidentiary hearing when a defendant challenges the admissibility of a confession.

provide Petitioner with a copy. Based upon the record before the court, it is unclear whether a hearing was conducted or whether the trial court denied the motion for a hearing. If a hearing was held, the transcript is relevant to a fair determination of the petition. Therefore, the court grants the Motion and directs Respondent to file the transcript of trial court proceedings conducted on April 24, 2001, and to provide a copy to Petitioner. If such a transcript is unavailable, Respondent shall so inform the court. Accordingly,

IT IS ORDERED that Respondent shall file a supplemental answer addressing the claims raised in the petition within **thirty days** of the date of this Order.

IT IS FURTHER ORDERED that Petitioner's "Motion to Compel Respondent to Furnish and File *Walker* Hearing Transcript" [Dkt. #12] is GRANTED. Within **thirty days** of the date of this Order, Respondent shall file the transcript of trial court proceedings conducted on April 24, 2001. Respondent shall also furnish Petitioner with a copy of the transcript. If such a transcript is not available, Respondent shall notify the court in writing within **thirty days** of the date of this Order.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: November 21, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 21, 2007, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

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